

Message Text

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ORIGIN OES-07

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L/N - MR. SLOAN

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FM SECSTATE WASHDC
TO AMEMBASSY BELGRADE IMMEDIATE
AMEMBASSY VIENNA IMMEDIATE

C O N F I D E N T I A L STATE 101299

VIENNA FOR IAEA (BETTAUER)

E.O. 11652: GDS

TAGS: ENRG, YO

SUBJECT: KRSKO NUCLEAR FUEL NEGOTIATIONS

REFS: (A) BELGRADE 2966; (B) BELGRADE 3033;
(C) STATE 49263; (D) BELGRADE 1407

1. PER BETTAUER/SLOAN TELECON, INSTRUCTIONS IN THIS
CABLE SHOULD BE PASSED TO BETTAUER (L/N), WHO IS NOW IN
VIENNA ON OTHER BUSINESS. BETTAUER WILL DISCUSS CONTENTS
OF PARAS 2-6 WITH KLJUN IN VIENNA.

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2. CHANGES PROPOSED BY YUGOSLAV SIDE IN REFTTEL A AND B
TO DRAFT EXCHANGES PROPOSED IN U.S. PROPOSAL OF REFTTEL C,
ALTHOUGH SOMEWHAT LESS THAN WE HAD HOPED, APPEAR TO BE
GENERALLY SATISFACTORY IF CERTAIN LANGUAGE CHANGES CON-
SISTENT WITH EXISTING U.S.-YUGOSLAV COMMITMENTS AND RE-
QUIREMENTS OF U.S. LAW CAN BE MET. IN PRESENTING THESE

MODIFICATIONS, YOU SHOULD AGAIN POINT OUT TO YUGOSLAV SIDE THAT CONDITIONS OF ARRANGEMENT MUST PASS SCRUTINY OF NUCLEAR REGULATORY COMMISSION AND THAT AS U.S. SIDE HAS INDICATED PREVIOUSLY, PROPOSED ARRANGEMENT, BY NOT DEALING WITH NON-U.S. LICENSED FUEL, FALLS FAR SHORT OF WHAT NUCLEAR REGULATORY COMMISSION EXPECTED WOULD RESULT FROM

U.S.-YUGOSLAV NEGOTIATION ON FUEL. EXECUTIVE BRANCH BELIEVES ELEMENTS OF COMPROMISE AS PROPOSED BY YUGOSLAV SIDE, WITH SOME MODIFICATION, PROVIDE ADEQUATE CASE FOR EXPORT BUT FURTHER WEAKENING OF COMMITMENT COULD TIP THE BALANCE. OUR SPECIFIC COMMENTS ON CHANGES PROPOSED BY YUGOSLAV SIDE ARE DISCUSSED BELOW.

3. REFTEL B PROPOSES FURTHER REVISION OF MAJOR CHANGE PROPOSED PARA 3 OF REFTEL A. WE ARE CONCERNED THAT NEW LANGUAGE AS PROPOSED LEAVES AMBIGUOUS THE QUESTION OF WHAT IS BEING REQUESTED, WHAT PRECISELY IS BEING TERMINATED AND, CONSEQUENTLY, COULD BE READ TO PLACE IN QUESTION YUGOSLAVIA'S OBLIGATIONS UNDER U.S.-YUGOSLAV ENRICHMENT CONTRACT (E.G., PENALTIES FOR PREMATURE TERMINATION), IF YUGOSLAVIA SHOULD DECIDE TO TERMINATE "OBLIGATIONS". FOR THESE REASONS, WE WOULD STRONGLY PREFER THE FOLLOWING LANGUAGE WHICH WE BELIEVE MEETS YUGOSLAV INTENT BUT CLARIFIES AMBIGUITIES CITED. "THE GOVERNMENT OF THE SFR OF YUGOSLAVIA UNDERSTANDS THAT THE UNDERTAKINGS CITED ABOVE REFER TO THE CONFIDENTIAL

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FIRST CORE AND RELOAD AND ANY OTHER SUBSEQUENT RELOAD THAT MAY BE REQUESTED AND TRANSFERRED. THESE UNDERTAKINGS MAY BE TERMINATED, IT BEING UNDERSTOOD THAT SUCH TERMINATION SHALL NOT AFFECT THE RIGHTS AND OBLIGATIONS OF THE PARTIES (INCLUDING THOSE SET FORTH IN THIS NOTE) WITH RESPECT TO FUEL TRANSFERRED TO THE SFR OF YUGOSLAVIA PRIOR TO SUCH TERMINATIONS. NOTHING IN THESE ARRANGEMENTS IS MEANT TO AFFECT THE TERMS OR CONDITIONS OF THE AGREEMENT FOR FURNISHING URANIUM ENRICHMENT SERVICES UNDER AGREEMENT FOR COOPERATION OF 14 AUGUST 1974 AND THE AGREEMENT FOR THE SUPPLY OF URANIUM ENRICHMENT SERVICES FOR A NUCLEAR POWER FACILITY IN THE SFR OF YUGOSLAVIA OF 14 JUNE 1974."

4. CONCERNING LANGUAGE SUGGESTED BY KLJUN ON GOY COMMITMENT TO NEGOTIATE, PARA 4 OF REFTEL A, TEXT OF PROPOSED GOY NOTE IS ACCEPTABLE. HOWEVER, KLJUN'S PROPOSAL FOR LANGUAGE OF VANCE TO MINIC LETTER, PARA 5, INTRODUCES PHRASE "IF THE NECESSITY ARISES" IN REFERRING TO YUGOSLAV AGREEMENT TO CONTINUE TO NEGOTIATE DISPOSITION OF SPENT FUEL. U.S. LAW REQUIRES REPEAT REQUIRES, WITH REGARD TO EXISTING AGREEMENTS, THAT U.S. SEEK TO NEGOTIATE CONDITIONS REQUIRED FOR NEW AGREEMENTS -- IN THIS CASE, U.S. RIGHT

OF CONSENT OVER RETRANSFER AND REPROCESSING OF ANY (I.E., INCLUDING NON-U.S. LICENSED) FUEL USED IN THE KRSKO REACTOR. YUGOSLAV PHRASE IS, THEREFORE, UNACCEPTABLE AND YOU SHOULD SEEK TO HAVE YUGOSLAV SIDE REMOVE THIS PHRASE FROM THE PROPOSED TEXT. WITH THIS ONE CHANGE, THE LANGUAGE OF PARAS 4 AND 5 OF REFTEL A IS ACCEPTABLE.

FYI: ANY QUALIFYING LANGUAGE CONCERNING THE YUGOSLAV COMMITMENT TO NEGOTIATE PRESENTS SIGNIFICANT DIFFICULTIES, SPECIFICALLY IN ENSURING NRC APPROVAL OF NECESSARY FUEL EXPORT LICENSES. IN ADDITION TO REQUIREMENT OF LAW TO NEGOTIATE NEW CONDITIONS, IF U.S. WAITS UNTIL YUGOSLAVS ARE IN POSITION TO UTILIZE NON-U.S. FUEL BEFORE NEGOTIATING CONDITIONS FOR DISPOSITION OF SUCH FUEL, U.S. WILL
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OBVIOUSLY HAVE LITTLE OR NO LEVERAGE TO OBTAIN ANY U.S. RIGHTS OVER SUCH FUEL. WE, OF COURSE, ALSO RECOGNIZE SENSITIVITY OF THIS ISSUE AND THAT OUR PRESSING COULD RESULT IN NO AGREEMENT AND DRIVE YUGOSLAVS TO VERY COURSE OF ACTION WE ARE TRYING TO PRECLUDE. THEREFORE, SHOULD YUGOSLAV SIDE INDICATE NEED FOR DOMESTIC PURPOSES, TO QUALIFY REFERENCE TO CONTINUED NEGOTIATION, WE COULD PROBABLY ACCEPT QUALIFIER IN U.S. RESPONSE SUCH AS "AS APPROPRIATE". END FYI.

5. ON SPENT FUEL DISPOSITION CONSIDERATIONS DISCUSSED IN PARA 2 OF REFTEL A, WE ARE PLEASED TO HEAR THAT GOY CAN ACCEPT COMMITMENT TO EXPAND STORAGE FACILITIES AND TO DISPOSE OF SPENT FUEL FROM KRSKO IN ACCORDANCE WITH OPTIONS PROPOSED IN U.S. TEXT OF REFTEL C. CONCERNING YUGOSLAV PROPOSAL THAT GOY HAVE RIGHT TO SELL TO U.S., UK OR FRANCE, ANY MATERIAL (URANIUM, PLUTONIUM) OBTAINED FROM REPROCESSING IF THAT OPTION BECOMES NECESSARY, WE ARE PREPARED TO AGREE TO SUCH A RIGHT IF IT IS PRESENTED AS U.S. OPTION WITH FIRST RIGHT OF REFUSAL AND IS BASED ON FAIR MARKET VALUE. WE WOULD SUGGEST THE FOLLOWING LANGUAGE. "IN THE EVENT THAT YUGOSLAVIA WERE TO CHOOSE THIS COURSE OF ACTION, AND PROVIDED THAT AN APPROPRIATE REQUEST HAD BEEN SUBMITTED TO THE GOVERNMENT OF THE UNITED STATES, I CAN AFFIRM ON BEHALF OF MY GOVERNMENT THAT IT WOULD BE PREPARED TO AGREE. THE UNITED STATES ALSO NOTES THAT YUGOSLAVIA HAS AGREED THAT THE DISPOSITION OF NUCLEAR MATERIAL DERIVED FROM U.S.-LICENSED FUEL WOULD BE SUBJECT TO FUTURE AGREEMENT OF THE PARTIES. IN THIS REGARD, IF SUBSEQUENT TO SUCH REPROCESSING YUGOSLAVIA SHOULD WISH TO SELL SUCH NUCLEAR MATERIAL TO THE UK OR FRANCE OR OTHER MUTUALLY AGREED STATE, I CAN CONFIRM ON BEHALF OF MY GOVERNMENT THAT IT
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WOULD BE PREPARED TO AGREE, PROVIDED THAT AN APPROPRIATE REQUEST HAD BEEN SUBMITTED TO THE GOVERNMENT OF THE UNITED STATES AND PROVIDED THAT THE GOVERNMENT OF THE UNITED STATES SHALL HAVE THE FIRST OPTION TO PURCHASE SUCH NUCLEAR MATERIAL AT THE FAIR MARKET VALUE PRICE EXISTING AT SUCH TIME AS THE REQUEST IS MADE."

6. CONCERNING THE GOY DESIRE THAT THE U.S. GUARANTEE YUGOSLAVIA MOST-FAVORED-NATION (MFN) TREATMENT, AS YOU ARE AWARE, WE HAVE BEEN RESERVING SUCH STATEMENTS FOR THOSE COUNTRIES THAT MEET ALL U.S. NON-PROLIFERATION CONDITIONS (E.G., RECIPIENT IS NPT PARTY AND HAS AGREED TO CONDITIONS FOR NEW AGREEMENTS). THEREFORE, WE DO NOT WISH TO SET A PRECEDENT OF GIVING GENERAL MOST-FAVORED-NATION TREATMENT TO THE GOY, AS PROPOSED IN OPTION B AS REPORTED IN REFTEL D, SINCE THE PROPOSED ARRANGEMENT DOES NOT MEET THE ABOVE CONDITIONS. WHAT WE CAN OFFER IS NON-DISCRIMINATORY ASSURANCES WITH REGARD TO U.S. FUEL SUPPLY FOR KRSKO. THE FOLLOWING FORMULATION IS PROPOSED AS THE LAST PARAGRAPH OF THE U.S. NOTE OR LETTER. "WITH REGARD TO COOPERATION ON THE SUPPLY OF FUEL TO THE GOY FOR NUCLEAR POWER PLANT KRSKO AS PROVIDED FOR IN THE CONTRACT AND THE SUPPLY AGREEMENT, THE U.S. INTENDS TO ASSURE THAT YUGOSLAVIA RECEIVES TREATMENT NO LESS FAVORABLE THAN THE U.S. MAY GENERALLY AFFORD TO ANY OTHER PARTIES WITH WHICH THE U.S. COOPERATES."

7. REGARDING FORM OF COMMITMENTS, AS WE INDICATED IN REFTEL C A NUMBER OF FORMS INCLUDING EXCHANGES OF NOTES AND/OR LETTERS, WOULD BE ACCEPTABLE. IN PARTICULAR, A BILATERAL EXCHANGE OF NOTES BETWEEN THE U.S. AND GOY WOULD IN SOME WAYS BE PREFERABLE INSTRUMENT FOR IMPLEMENTING PROPOSED COMMITMENTS PROVIDED THAT COMMITMENTS CONTAINED IN PROPOSED LETTER TO IAEA (REFTEL C) ARE INCLUDED. WE DEFER TO THE GOY ON WHAT FORM OR FORMS THEY WOULD FIND MOST CONVENIENT.

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8. FYI: IF THESE MODIFICATIONS ARE ACCEPTABLE, AND BARRING ANY ADDITIONAL CHANGES BY GOY, WE BELIEVE CURRENT FORMULATION IS ADEQUATE BASIS UNDER THE LAW AND CONSISTENT WITH U.S. NON-PROLIFERATION OBJECTIVES FOR U.S. APPROVAL OF FUEL LICENSE FOR KRSKO AND WE WILL SO RECOMMEND TO NUCLEAR REGULATORY COMMISSION. END FYI.

9. FOR BELGRADE: PLEASE ADVISE GOY OFFICIALS THAT WHILE NOSENZO WILL BE UNABLE TO MEET WITH YUGOSLAVS IN VIENNA OR ON APRIL 24 IN BELGRADE DUE TO PREVIOUSLY SCHEDULED TRAVEL, HE IS PREPARED TO MEET, IF NECESSARY, AT MUTUALLY CONVENIENT TIME TO COMPLETE NEGOTIATIONS.

10. PER PARA 8 OF REFTTEL A, DEPARTMENT AGREES WITH EMBASSY AND NO ACTION SHALL BE TAKEN ON GENERAL ATOMIC APPLICATION UNTIL AFTER KRSKO FUEL NEGOTIATIONS ARE COMPLETED.

CHRISTOPHER

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